


<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number Q63124	
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number	Filed	
	09/809,273	March 16, 2001	
	First Named Inventor		
	Hiroyuki NISHII		
	Art Unit	Examiner	
	1794	Dawn L. Garrett	
<p>WASHINGTON DC SUGHRUE/265550</p> <p><b>65565</b></p> <p>CUSTOMER NUMBER</p>			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal</p> <p>The review is requested for the reasons(s) stated on the attached sheet(s).</p> <p>Note: No more than five (5) pages may be provided.</p> <p><input checked="" type="checkbox"/> I am an attorney or agent of record.</p> <p>Registration number      47,121</p> <div style="text-align: right;">         Signature     </div> <div style="text-align: right;">       Keiko K. Takagi        _____        Typed or printed name     </div> <div style="text-align: right;">       (202) 293-7060        _____        Telephone number     </div> <div style="text-align: right;">       January 28, 2008 (timely filed, January 26, 2008        being a Saturday)        _____        Date     </div>			

**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of

Docket No: Q63124

Hiroyuki NISHII, et al.

Appln. No.: 09/809,273

Group Art Unit: 1794

Confirmation No.: 4971

Examiner: Dawn L. Garrett

Filed: March 16, 2001

For: MEMBER FOR ELECTROLUMINESCENT DEVICE AND ELECTROLUMINESCENT DEVICE  
HAVING THE SAME

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

**MAIL STOP AF - PATENTS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated October 26, 2007, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue: (1) claims 4 and 13 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Wakamatsu et al. (US 4,667,814); (2) claim 15 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Wakamatsu et al.; (3) claims 4 and 13 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Yamada et al. (US 5,143,763); (4) claim 15 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Yamada et al. (US 5,143,763); (5) claims 10, 12, and 17 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Wakamatsu et al. (US 4,667,814) in view of Biebuyck et al. (US 5,734,225); and (6) claims 10, 12 and 17 are rejected under 35 U.S.C.

§103(a) as allegedly being unpatentable over Yamada et al. in view of Biebuyck et al. (US 5,734,225) for the reasons of record.

Applicants respectfully traverse the rejections for the following reasons.

Independent claim 4 is directed to a member for an electroluminescent device comprising a container which is made of a porous material and a non-porous material and a removing agent capable of removing a prescribed gaseous component, the removing agent being contained in said container, wherein said container is made of two sheets joined together at their peripheries, one of said two sheets being a porous sheet, and the other being a non-porous sheet; said porous sheet is an air-permeable laminate sheet comprising a porous layer and a reinforcing layer; and said reinforcing layer is nonwoven fabric.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. In addition, for anticipation, the *identical invention* must be shown in as complete detail as is contained in the claim. See MPEP §2131.

Wakamatsu discloses an oxygen absorbent packet comprising a plastic container (2), an adhesive (8) to seal (2) and (6), which is an air-permeable nonwoven sheet. See Fig. 2 and col. 2, lines 43-45. Specifically, Wakamatsu discloses that the plastic container (2) has a *molded cup-like shape*. See col. 2, lines 30 and Fig. 2. In contrast, claim 4 recites that the "container is made of two sheets joined together at their peripheries where one of said two sheets being a porous sheet and the other being a non-porous sheet" (underlining added). Since Wakamatsu discloses a cup-like container, which is not a porous sheet, Wakamatsu does not disclose a container made of two sheets joined together at their peripheries, as recited in claim 4.

Hence, Wakamatsu does not anticipate claim 4 since it does not each and every element of the claim 4.

Yamada discloses containers comprising an oxygen scavenger laminate (see abstract), and Figure 1 shows an oxygen absorber layer (7), a non-woven fabric layer (6), a porous membrane (3), a non-porous layer (2), and a laminate layer (8) having gas barrier properties. See col. 16, lines 28-35. The Examiner asserts that layer 8 of Yamada correspond to the non-porous sheet of claim 4 and layers 6 and 3 of Yamada corresponds to the porous sheet of claim 4.

However, in Yamada, the oxygen absorbent composition layer 7 is present between layers 8 and layer 6, and thus, layers 8 and 6 are not "joined together at their peripheries", as recited in claim 4. Thus, Yamada does not disclose the container of claim 4, particularly since it relates to a sheet having a laminated structure. Further, since Yamada does not disclose a container, it does not disclose a removing agent being contained in the container, as recited in claim 4.

Hence, Yamada also does not anticipate claim 4 since it does not each and every element of the claim.

Further, claims 13 and 15 depend from claim 4, and thus, it is respectfully submitted that these claims are patentable for at least the same reasons as claim 4 over Wakamatsu or Yamada.

Turning to the obviousness rejections, independent claim 10 is directed to an electroluminescent device having a member comprising a container which is made of a porous material and a non-porous material and a removing agent capable of removing a prescribed gaseous component, the removing agent being contained in said container, wherein said container is made of two sheets joined together at their peripheries, one of said two sheets

being a porous sheet, and the other being a non-porous sheet; said porous sheet is an air-permeable laminate sheet comprising a porous layer and a reinforcing layer; and said reinforcing layer is nonwoven fabric.

Since claim 10 recites the same limitations as claim 4, it is respectfully submitted that claim 10 is patentable for at least the same reasons as claim 4. Specifically, claim 10 recites that the container is made of two sheets joined together at their peripheries where one of said two sheets being a porous sheet and the other being a non-porous sheet. Since Wakamatsu discloses a cup-like container, which is not a porous sheet, Wakamatsu does not disclose a container made of two sheets joined together, where one sheet is a non-porous sheet.

In addition, claim 10 recites "a container" and "said container is made of two sheets joined together at their peripheries". Yamada, as discussed above does not disclose a "container" as claimed. In addition, claim 10 recites "the removing agent being contained in said container". Since Yamada discloses that the layer 7 contains an oxygen absorbent in the resin and since Yamada does not disclose a container, Yamada fails to disclose a removing agent contained in a container, as claimed.

Further, the secondary references do not make up for the deficiencies of Wakamatsu and Yamada.

Therefore, it is respectfully submitted that a *prima facie* case of obviousness has not been established since the cited references fail to teach or suggest every element of claim 10.

In addition, claims 12 and 17 depend from claim 10, and thus, it is respectfully submitted that these claims are patentable for at least the same reasons as claim 10 over the cited art.

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**  
**U.S. Appln. No. 09/809,273**

**Attorney Docket Q63124**

For the above reasons, it is respectfully submitted that claims 4, 10, 12, 13, 15, and 17 are patentable over the cited art.

Accordingly, Applicants respectfully request the Pre-Appeal Brief Conference Panel to withdraw the foregoing rejections.

Respectfully submitted,



Keiko K. Takagi  
Registration No. 47,121

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON DC SUGHRUE/265550

**65565**

CUSTOMER NUMBER

Date: January 28, 2008 (timely filed, January 26, 2008 being a Saturday)